

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

CASE NO. 04-60773 DDO

James B. Morris
SSN XXX-XX-1051
Leilani L. Morris
SSN XXX-XX-5682

CHAPTER 13 CASE

Debtor.

NOTICE OF OBJECTION TO CONFIRMATION OF PLAN

TO: Debtor and other entities specified in Local Rule 3015-3.

1. Countrywide Home Loans, Inc. (hereinafter "Secured Creditor") moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this objection at 10:00 a.m. on August 24, 2004, before the Honorable Dennis D. O'Brien in Courtroom 2, Second Floor at U.S. P.O. Building, 118 South Mill, Fergus Falls, Minnesota.

3. Any reply to this objection must be filed and delivered not later than 10:00 a.m. on August 23, 2004, which is 24 hours before the time set for the hearing, or filed and served by mail not later than August 21, 2004, which is three days before the time set for the hearing. **UNLESS A REPLY OPPOSING THE OBJECTION IS TIMELY FILED, THE COURT MAY SUSTAIN THE OBJECTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this objection pursuant to 28 U.S.C. §§ 157 and 1334, Federal Rule of Bankruptcy Procedure 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 13 case was filed June 29, 2004. The case is now pending before this Court.

5. This objection arises under 11 U.S.C. § 1322 and Local Rule 3007-1.

6. Debtor is indebted to Secured Creditor in the principal amount of \$78,000.00, as evidenced by that certain Promissory Note dated November 10, 2000, together with interest thereon.

7. Debtor's indebtedness is secured by a mortgage on real estate in which Debtor has an interest as evidenced by that certain Mortgage Deed dated November 10, 2000, executed by Leilani L. Morris and James B. Morris, wife and husband, recorded November 15, 2000, as Document No. 397713, a copy of which is attached hereto as Exhibit "A". The name and address of the original creditor is contained in the attached Exhibit "A".

8. Said plan is objected to on the basis that Debtor proposes to pay Secured Creditor from the proceeds of a future sale of Debtor's home. This Court established that confirmation must be denied where the debtor proposes only to cure from the proceeds of a sale without proposing to maintain all post-petition payments as they become due, or to apply Chapter 13 distributions to cure. *See In re Newton*, 161 B.R. 207, 217 (Bkrtcy.D.Minn. 1993).

9. Said plan is also objected to on the basis that the plan proposed by Debtor does not make certain objective commitments relating to the cure-by-sale. This Court established that the plan should include specific terms including listing price, length and starting date of listing agreement, by which Debtor proposes to market the property. *See In re Newton*, 161 B.R. 207, 217 (Bkrtcy.D.Minn. 1993). Additionally, the plan should include a default remedy if sale does not close by proposed cure period to relieve the affected mortgagee from the automatic stay. *Id.*

10. The value of the property as scheduled by Debtor is \$150,000.00 subject to Secured Creditor's mortgage in excess of \$89,921.01.

11. The plan, as proposed, is not made in good faith by Debtor.

. . .

. . .

12. Therefore, it is requested that the Court deny confirmation of Debtor's plan.

Dated this 10th day of August, 2004.

WILFORD & GESKE

By /e/ James A. Geske

James A. Geske
Attorneys for Secured Creditor
7650 Currell Blvd., Suite 300
Woodbury, Minnesota 55125
651-209-3300
Attorney Reg. No. 14969X

THIS COMMUNICATION IS FROM A DEBT COLLECTOR ATTEMPTING TO
COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT
PURPOSE.

03/25/2004 10:52 IFAX lwilford@wilfordgeske.com

+ Susan Carlson 001/008

03/25/2004 10:52 IFAX FROM-TODD CO. TITLE & ABSTRACT

+125-732-4331 T-004 P.005/011 P-010

OFFICE OF COUNTY AUDITOR/TREASURER
TODD COUNTY MINNESOTADate Nov 17-2000Registration Tax Herson of \$ 179.40Trans. Fee \$ 20.00Kathleen Hansen
County Auditor/TreasurerRosalie J. Jorgensen
DeputyDon Paul
DeputyOFFICE OF COUNTY RECORDER
TODD COUNTY MINNESOTAI hereby certify that
this instrument # 0002213
was filed/recorded in this office
for record on the 17th day of
Nov 2000 at 4 o'clockCheryl Poth, County Recorder
by Kathleen Hansen Deputy19.00 regarding the
will certificate
179.40 deed taxing reg. tax

Title Services of Arham

MORTGAGE

00000000000000000000

THIS MORTGAGE ("Security Instrument") is given on November 10, 2000
Leilani L. Morris and James B. Morris, wife and husband("Borrower"). This Security Instrument is given to
Cricket Loans Inc.which is organized and existing under the laws of the State of Michigan
located at 20000 Victor Parkway, Livonia, MI 48152

Seventy Eight Thousand and 00/100

("Lender"). Borrower owes Lender the principal sum of

Dollars (U.S. \$78,000.00).

This debt is evidenced by Lender's note dated the same date as this Security Instrument ("Note"), which
provides for monthly payments, with the full debt, if not paid earlier, due and payable on
December 1, 2030 and the interest on the principal sum of

9.00% per annum. This Security Instrument serves as Lender's (a) sole statement of

payment of all other debts, with interest, additional under paragraph 7 to protect the security of this Security
Instrument and (b) security for the Lender's (a) sole statement of payment of all other debts, with interest, additional under paragraph 7 to protect the security of this Security

CRICKET LOANS INC.

Page 1 of 4

FORM 1000

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TODD COUNTY

2000000000

EXHIBIT A

08/25/2004 10:52 IFAX lwilford@wilfordgeske.com

+ Susan Carlson 002/006

OCT-25-2003 04:21PM FROM: TUDOR CO. TITLE & ABSTRACT

1925-792-4321 T-334 P.004/012 P-008

671713

hereunder and (b) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to Lender, with power of sale, the following described property located in [City]:

County, Minnesota

West half of Southeast quarter (W 1/2 SE 1/4) of Section 6, Township 133,
Range 33.
Commonly known as: RRL Box 134

which has the address of Range 33, Box 134, Staples
Minnesota 56479

Map Code ("Property Address"):

Sheet, City:

TOGETHER WITH all the improvements now or hereafter erected on the property, and all equipment, appliances, and fixtures now or hereafter a part of the property. All easements and interests shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is not encumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT creates a valid lien in favor of Lender and its successors in interest, and shall be enforceable by foreclosure to secure a written security instrument creating and property.

TERMINAL COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal and Interest, Prepayment and Late Charges. Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.

2. Funds for Taxes and Insurance. Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the day maturity payments due due under the Note, until the Note is paid in full, a sum ("Funds") for (a) yearly taxes and assessments which may attach primarily over this Security Instrument or a lien on the Property; (b) yearly household payments or annual rents on the Property, if any; (c) yearly interest or property insurance premiums; (d) yearly flood insurance premiums, if any; (e) yearly mortgage insurance premiums, if any; and (f) any other payments to Lender, in accordance with the provisions of paragraph 6. In the event of the payment of mortgage insurance premiums, there shall be called "FUNDING MONIES." Lender may, at any time, collect and hold Funds in an account not to exceed the amount required to fund for a federally insured mortgage loan may require the Borrower's conveyance under the Federal Real Estate Settlement Procedures Act of 1974 as amended from time to time, 12 U.S.C. Section 2601 et seq. ("RESPA"), unless another law that applies to the Funds sets a lower amount. If so, Lender may, at any time, collect and hold Funds in an account not to exceed the lower amount. Lender may release the amount of Funds due on the basis of current data and reasonable estimates of expenditures of those items funds or otherwise in accordance with applicable law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, automatically, or only (including Lender, if Lender is such an institution) or in any Federal Reserve Loan Bank. Lender shall apply the Funds to pay the Borrower's debt. Lender may not charge Borrower for holding and applying the Funds, including applying the same amount, or violating the Federal Reserve, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. However, Lender may require Borrower to pay a one-time

W-9000-0000

Page 1 of 1

[Signature]
For Lender only

09/25/2004 10:52 IFAX lwilford@wilfordgeske.com

+ Susan Carlson 003/008

OCT-20-2004 04:21PM FROM-TOD CO.TITLE & ABSTRACT

+320-732-4301 T-204 P.007/012 P-000

591113

Property. The notice shall further inform Borrower of the right to substitute other collateral and the right to bring a court action to effect the non-attainment of a default or any other default of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender, at its option, may require immediate payment in full of all sums secured by this Security Instrument without further demand and may exercise the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 21, including, but not limited to, reasonable attorney's fees.

If Lender exercises the power of sale, Lender shall cause a copy of a notice of sale to be served upon any person in possession of the Property. Lender shall publish a notice of sale, and the Property shall be sold at public auction in the manner prescribed by applicable law. Lender or its designee may purchase the Property at any sale. The proceeds of the sale shall be applied in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable attorney's fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

22. Release. Upon payment of all sums secured by this Security Instrument, Lender shall discharge this Security Instrument without charge to Borrower. Borrower shall pay any reasonable costs.

23. Waiver of Defect. Borrower waives all rights of innocent acquisition in the Property.

24. Interest on Advances. The interest rate on advances made by Lender under paragraph 7 shall not exceed the maximum rate allowed by applicable law.

25. Riders to this Security Instrument. If one or more riders are executed by Borrower and attached together with this Security Instrument, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument. [Check applicable box(es)]

<input type="checkbox"/> Adjustable Rate Rider	<input type="checkbox"/> Construction Rider	<input type="checkbox"/> L-1 Ready Rider
<input type="checkbox"/> Graduated Payment Rider	<input type="checkbox"/> Home Unit Development Rider	<input type="checkbox"/> Monthly Payment Rider
<input type="checkbox"/> Refinance Rider	<input type="checkbox"/> New Improvement Rider	<input type="checkbox"/> Second Home Rider
<input type="checkbox"/> VA Rider	<input type="checkbox"/> Other(s) [specify]	

BY SIGNING HEREIN, Borrower accepts and agrees to the terms and covenants specified in this Security Instrument and in any rider(s) executed by Borrower and attached with it.

Witness:

_____	_____	<u>Leah L. Morris</u>	_____
_____	_____	Leah L. Morris	_____
_____	_____	<u>James B. Morris</u>	_____
_____	_____	James B. Morris	_____
_____ (Print)	_____ (Print)		_____ (Print)
_____ (Signature)	_____ (Signature)		_____ (Signature)
_____ (Print)	_____ (Print)		_____ (Print)
_____ (Signature)	_____ (Signature)		_____ (Signature)
_____ (Print)	_____ (Print)		_____ (Print)
_____ (Signature)	_____ (Signature)		_____ (Signature)

WITNESSES:

Page 2 of 2

Form 3000 0/00

03/25/2004 10:52 IFAX lwilford@wilfordgeske.com

+ Susan Carlson 004/008

OCT-26-2003 04:22PM FROM-TORO CO.TITLE & ABSTRACT

+320-732-4221

T-004 P.006/011 P-014

397713

STATE OF MINNESOTA

3985 Ottertail County MN

On the 10th day of November, 2000, before me appeared
Lillian L. Morris and James B. Morris, wife and husbandpersonally known to be the person(s) described in and who executed the foregoing instrument and acknowledged that
they executed the same as their free act and deed.*[Signature]*

Notary Public

My Commission Expires: 1-31-05

This instrument was dated by

same as below

The documents for the real property described in this instrument should be sent to:
Quicken Loans Inc., Escrow Dept.,
20035 Victor Parkway
Livonia, MI 48152Record and Return To:
Patricia LaPeg
Quicken Loans Inc.
20035 Victor Parkway
Livonia, MI 48152

QUICKEN LOANS

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[Signature]
Patricia LaPeg

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

CHAPTER 13 CASE

James B. Morris
SSN XXX-XX-1051
Leilani L. Morris
SSN XXX-XX-5682

CASE NO. 04-60773 DDO

Debtor.

**UNSWORN DECLARATION
FOR PROOF OF SERVICE**

Diana Waletzko, employed by Wilford & Geske, attorneys licensed to practice law in this Court, with office address at 7650 Currell Blvd., Suite 300, Woodbury, Minnesota, declares that on August 10, 2004, I served the annexed Notice of Objection to Confirmation of Plan and proposed Order Denying Confirmation of Plan to each person referenced below, a copy thereof by enclosing the same in an envelope with first class mail postage prepaid and depositing the same in the post office at Woodbury, Minnesota addressed to each of them as follows:

James B. Morris
Leilani L. Morris
22796 500th Street
Staples, MN 56479

Michael J. Farrell
PO Box 519
Barnesville, MN 56514

Kenneth J. Kludt
1001 Center Ave Ste C
Moorhead, MN 56560

U.S. Trustee
1015 U.S. Courthouse
300 South 4th Street
Minneapolis, MN 55415

And I declare, under penalty of perjury, that the foregoing is true and correct.

Dated this 10th day of August, 2004.

/e/ Diana Waletzko
Diana Waletzko

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

**ORDER DENYING CONFIRMATION
OF PLAN**

James B. Morris
SSN XXX-XX-1051
Leilani L. Morris
SSN XXX-XX-5682

Debtor.

CASE NO. 04-60773 DDO

This Chapter 13 Case came on before the Court on August 24, 2004, for hearing on Debtor's plan of debt adjustment. Appearances were as noted in the record. Upon the record made at hearing, and all other files and records in this case,

IT IS HEREBY ORDERED that confirmation of Debtor's plan of debt adjustment, as filed June 29, 2004, is denied.

Dated: _____
Judge of Bankruptcy Court